

REMARKS

In view of the restriction requirement discussed below, Applicants have canceled Claims 27 and 30-35. Applicants submit that their claims remain fully supported in the specification and again reserve the right to file one or more divisional applications directed to the non-elected subject matter.

Restriction Requirement under 35 U.S.C. 121

The Office Action requires restriction to one of the following groups:

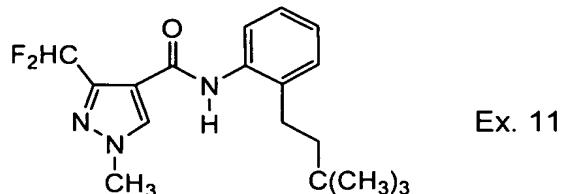
- Group I: Claims 19-26 and 28, drawn to a product of formula (I) and a composition thereof
- Group II: Claims 27 and 30, drawn to a method of Claim 27(a) for making a product of formula (I) and a composition thereof
- Group III: Claims 27 and 30, drawn to a method of Claim 27(b) for making a product of formula (I) and a composition thereof
- Group IV: Claims 27 and 30, drawn to a method of Claim 27(c) for making a product of formula (I) and a composition thereof
- Group V: Claims 27 and 30, drawn to a method of Claim 27(d) for making a product of formula (I) and a composition thereof
- Group VI: Claims 27 and 30, drawn to a method of Claim 27(e) for making a product of formula (I) and a composition thereof
- Group VII: Claim 29, drawn to a method of using product of formula (I))
- Group VIII: Claim 31, drawn to an aniline of formula (IIIb)
- Group IX: Claim 32, drawn to an isopentone (not "isopentene") of formula (V))
- Group X: Claim 33, drawn to an isopentene of formula (VI)
- Group XI: Claim 34, drawn to an isopentyne of formula (VII)
- Group XII: Claim 35, drawn to an alkanoneaniline of formula (X)

The Office Action also requires election of a single species from within the elected group (as explained at pages 6-9) for initial examination.

Applicants elect Group I with traverse with respect to Group VII (i.e., the method of use of Claim 29) but without traverse with respect to the other groups. Applicants' traversal is premised on the inherent relationship between the claimed compounds and their biological activity as recognized in *In re Papesch*, 325 F.2d 381, 137 U.S.P.Q. 43, 51 (C.C.P.A. 1963), which stands for the principal that a compound and its properties are inseparable. Applicants submit that the biological

activity inherent to the method of Group VII is so intimately associated with the compounds of Group I that the respective claims can and should be considered together without undue burden on examination.

Applicants also elect for initial examination the species represented by the compound of Example 11, which can be represented by the formula



Ex. 11

in which, with reference to formula (I), L is an unsubstituted group L-1 (i.e., where R² is hydrogen), R¹ is hydrogen, R³ is methyl, and group A is a radical of formula (A1) in which R¹⁰ is difluoromethyl, R¹¹ is hydrogen, and R¹² is methyl (see Table 1 at page 51 taken with the general formula at page 50), upon which Claims 19-21, 23, 24, 26, 28, and 29 (but not Claims 22 and 25) are readable. Applicants note by way of comment the supporting biological data for the compound of Example 11 in Table A (first compound at page 60), Table B (first compound at page 63), Table C (first compound at page 66), and Table D (second compound at page 66).

This election is without traverse to the extent that it is understood that (a) the restriction requirement will be withdrawn upon the finding of an allowable genus and (b) any species withdrawn from consideration will be transferred to the elected subject matter unless it is found patentably distinct from the elected or allowed claims. With respect to expansion of examination beyond the elected species, Applicants believe that their claims, although relatively broad, are sufficiently related that they should be examined in their full scope, particularly since thiophene moieties (such as those of groups L2, L3, and L4) are known to share many properties with phenyl groups. However, Applicants suggest for the convenience of the Examiner that she start with compounds of formula (I) in which L is L-1 and A is a radical of formula (A1).

In view of the preceding amendments and remarks, allowance of the claims is respectfully requested.

Respectfully submitted,

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